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OFFICE OF PETITIONS

In re Application of :
Palsulich, et al. : DECISION ON PETITION
Application No. 10/636,021 :
Filed: August 6, 2003 :
Docket No.: 108298727US :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed December 28, 2007.

This application was held abandoned following the Pre-Brief Appeal Conference decision by the Board of Patent Appeals and Interferences mailed November 2, 2007. Notice of Abandonment was mailed December 6, 2007.

Petitioners argue in essence that the Notice of Abandonment was prematurely mailed as applicants had one month from the mail date of the Pre-Brief Appeal Conference decision to file an Appeal Brief, and that the period of time for submission of the appeal brief was extendible.

Petitioners' arguments have been carefully considered and found convincing.

A review of the Pre-Brief Appeal Conference decision indicates that "[a]pplicant is required to submit an appeal brief in accordance with 37 CFR 41.37. The time period for filing an appeal brief will be reset to be one month from mailing this decision, or the balance of the two-month time period running from the receipt of the notice of appeal, whichever is greater. Further, the time period for filing of the appeal brief is extendible under 37 CFR 1.136 based upon the mail date of this decision or the receipt date of the notice of appeal, as applicable."

The time period applicable in this instance is based upon the mail date of the Pre-Brief Appeal Conference decision, as argued.

In view of the evidence presented, the petition to withdraw the holding of abandonment is hereby GRANTED.

The Notice of Abandonment is hereby VACATED and the holding of abandonment is WITHDRAWN.

The application file is being forwarded to Technology Center Group Art Unit 1792 to await submission of applicants' appeal brief (and extension of time).

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.



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Office of Petitions